

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3816-01
Bill No.: SB 1023
Subject: Crimes and Punishment
Type: Original
Date: January 30, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume prosecutors could absorb the costs of the proposed legislation within existing resources.

Officials from the **Office of State Public Defender (SPD)** assume new crimes create new cases for the SPD. The exact number of cases affected is too uncertain to provide a definitive dollar amount of fiscal impact. Since the amount of impact is uncertain, the SPD assumes existing staff will be able to provide representation in these cases initially. However, once the true fiscal impact is determined, the SPD will reassess the impact of this legislation. Passage of more than one bill increasing existing penalties or creating new crimes will require increased appropriations for the SPD.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume this proposal creates the criminal use of property by operating audiovisual recording devices while in a movie. Penalty provisions, the component of the bill to have potential fiscal impact for DOC, is for a class A misdemeanor for the first offense and a class D felony when priors exist.

Currently, the DOC cannot predict the number of new commitments which may result from the enhancement of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY03 average of \$38.10 per inmate per day, or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

The DOC does not anticipate the need for capital improvements at this time. It must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

The following factors contribute to DOC's minimal assumption:

- ▶ DOC assumes the narrow scope of the crime will not encompass a large number of offenders;
- ▶ The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence; and
- ▶ The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but DOC assumes the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposed legislation would create the offense of criminal use of real property through the misuse of audiovisual recording devices. A person who would knowingly operate the audiovisual recording function of a device at a movie without proper consent from certain individuals is guilty of criminal use of real property.

Certain persons who alert law enforcement authorities of an alleged violation would not be civilly liable for subsequent actions taken to detain an individual until such law enforcement authorities arrive if he or she acted in good faith. There would be an exception to this provision if the plaintiff can prove that he or she was held for an unreasonable amount of time.

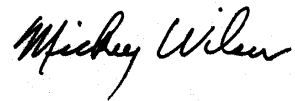
The proposal would not prohibit law enforcement from operating audiovisual recording devices during the course of their authorized activities.

The proposal would make criminal use of real property pursuant to this section a class A misdemeanor unless it is a second or subsequent offense, in which case it would be a class D felony.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Corrections
Department of Public Safety
 – Missouri State Highway Patrol
Office of Prosecution Services
Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
January 30, 2004